

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA,  
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF ALABAMA and  
NANCY L. WORLEY, Secretary of State,  
in her official capacity,

Defendants.

CASE NO. 2:06-cv-392-WKW

**SPECIAL MASTER'S FIRST  
(SEPTEMBER 2006) INTERIM REPORT**

Comes now Governor Bob Riley, Governor of the State of Alabama, as Court-appointed Special Master, and files his first monthly interim report detailing the activity and progress made toward implementation of Alabama's single, uniform, official, centralized, interactive computerized statewide voter registration list.

**I. BACKGROUND**

On October 29, 2002, the federal Help America Vote Act (HAVA) was signed into law. The statutory deadline for compliance was January 2004. Alabama was not in compliance by the statutory deadline, but sought and received a two-year extension. Alabama likewise failed to meet the subsequent January 1, 2006, deadline. As a result of Alabama's non-compliance and based upon a number of other significant factors, including most importantly the fact that the only compliance plan submitted to the Court was not likely to accomplish compliance by the time of the federal election

processes in 2008, the Court determined that it had no alternative other than to appoint a Special Master. By Order of this Court on August 8, 2006, Governor Bob Riley, in his official capacity as Governor of the State of Alabama, was appointed as Special Master and instructed to develop and implement a single, uniform, official, centralized, interactive computerized statewide voter registration list, in compliance with Section 303 of the HAVA of 2002, and instructed to proceed with all reasonable diligence.

## **II. IMPLEMENTATION ACTIVITIES AND PROGRESS**

The Governor, as Special Master, reviewed carefully the above-referenced Court Order of August 8, 2006. After this review, and after a full consideration of the applicable law, the responsibilities of the Special Master to achieve implementation of the Court Order and compliance with federal law, and in consideration of the relatively short time frames involved, the Governor determined organizational requirements which he believed necessary and appropriate to ensure timely compliance and implementation. The Governor, as Special Master, has appointed a HAVA Implementation Committee to work with him and assist him in achieving compliance and implementation. This Committee is composed of four distinguished, experienced, qualified, and highly respected individuals. This Committee is composed of Sid McDonald, who will serve as Chairman, who is currently the Chairman of the Board of Directors of Intergraph Corporation, a member and former Chairman of the Board of Trustees of the University of Alabama System, a former member of the Alabama Commission on Higher Education, a former Alabama State Representative for two terms, a former Alabama State Senator for one term, and a former finance director of the State of Alabama.

The other three members of the HAVA Implementation Committee are Judge Rip Proctor, a highly respected, long-time probate judge from Lawrence County, Alabama, who formerly served as the Chairman of the 24-member HAVA Advisory Committee, who has served as President of the Alabama Probate Judges Association, who has been chairman of that association's elections committee, and who is commonly known to be the most expert judge, or one of the most expert judges, in the State of Alabama with regard to election laws and voter registration laws.

The next member of the HAVA Implementation Committee is Mr. Jim Bennett. Mr. Bennett is current Secretary of Labor of the State of Alabama, a former two plus term Secretary of State, former State Representative, former State Senator for over two terms, former President of the National Association of Secretaries of State, and a gentleman of great experience in voting and voter registration issues.

The third member of the HAVA Implementation Committee is Mr. Trey Granger, a Montgomery attorney, who is the Director of Elections for Montgomery County, Alabama. Under the leadership of Mr. Granger and Montgomery Probate Judge Reese McKinney, Montgomery County was the first county in the state to become completely HAVA compliant, and to achieve compliance by the January 1, 2006, federal deadline. Mr. Granger previously served as General Counsel in the Office of the Secretary of State and was intimately involved in all types of election and voter registration matters, most particularly including both the preparation and subsequent modifications of the Request for Proposals (RFP) that was submitted to prospective vendors, approved by the 24-member HAVA Advisory Committee, and which produced a proposal which was unanimously recommended by the 24-member HAVA Advisory Committee.

This Committee is currently in the process of organizing itself, and determining its processes, procedures, staffing needs, and office space needs for the project. It is expected that these items will all be determined prior to the submission of the next Special Master's report.

### **III. SPECIAL MASTER'S PLANNED ACTIVITIES FOR THE IMMEDIATE FUTURE**

The Governor, as Special Master, has instructed the Chairman and members of his HAVA Implementation Committee that they are to reactivate and re-engage the 24-member HAVA Advisory Committee, as soon as reasonably possible, and to give serious consideration to their input and recommendations. The Governor, as Special Master, has instructed the Chairman and members of his HAVA Implementation Committee that he intends for their implementation processes to include one or more public forums for the purpose of both informing the public, but also to receive input and recommendations from various stakeholders, including, but not limited to, probate judges, voter registrars, circuit court clerks, and county commissioners. The HAVA Implementation Committee will also immediately begin a process to review and update the RFP, to be submitted to various vendors, subject to additional input from the above-referenced groups, entities, and individuals. The RFPs will be issued to prospective vendors as soon as reasonably possible. The Governor has also instructed the members of his HAVA Implementation Committee that he wishes for them to use and include the Federal Elections Assistance Commission to whatever extent deemed appropriate by the Committee, to assist Alabama as we move forward to an excellent voter registration system.

#### **IV. SPECIAL MASTER'S CONSIDERATION OF COURT TIME FRAMES AND TIME BENCHMARKS**

The Governor, as Special Master, has reviewed the time frame established by the Court in its August 8<sup>th</sup> Order and has consulted with others more knowledgeable and experienced with regard to the expected requirements and compliance activities of the selected vendor, in order to achieve compliance and implementation. The Governor, based upon this input, believes that the time frames established by the Court are reasonable, that compliance and implementation can be achieved on or before August 31, 2007. The Governor, as Special Master, has reviewed benchmarks for the various aspects necessary for completion and implementation, including training and testing, as were set out in the Court's Order of July 21, 2006. The Governor has sought input from persons more experienced than he on the various aspects and activities covered by the suggested benchmarks. The Governor, based on this input, believes that these benchmarks are reasonable, although not necessarily exactly appropriate as to each individual item. The Governor does believe that the time frames outlined in the overall nine items of benchmarks are reasonable. He will encourage the HAVA Implementation Committee to follow, insofar as possible, these suggested benchmark time frames and to shorten them where possible.

#### **V. HAVA VOTER REGISTRATION LIST COMPLIANCE FUNDS AND RELATED ACCOUNTING**

The Governor, as Special Master, working in conjunction with the Finance Department and the Comptroller of the State of Alabama, and in accordance with the Court Order of August 8, 2006, has established a separate HAVA Voter Registration

Fund (HAVA-VRF) and the transfer of funds into said account has been accomplished in the amount of \$12,420,932.38. The Special Master has expended no funds from this account, as of the current date. The Special Master will ensure that accurate accounting of expenditures from this fund will be done, with periodic reports to the court, and that said accounting will be available for public inspection.

### **Recordkeeping**

The Governor, as Special Master, will maintain complete and accurate records of his actions, and the actions of his HAVA Implementation Committee, relating to the duties and responsibilities of the Special Master under the Court Order of August 8, 2006.

The Special Master commits that this First Interim Report and all future reports will be available to the public through the Governor's website, which can be accessed at [www.governor.state.al.us](http://www.governor.state.al.us).

Done this 12<sup>th</sup> day of September 2006.

Respectfully submitted,

**/s/ Kenneth D. Wallis, II**  
Kenneth D. Wallis, II  
Chief Legal Advisor  
Office of the Governor

#### **ADDRESS OF COUNSEL:**

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(334) 242-2335 Fax

## **CERTIFICATE OF SERVICE**

I hereby certify that on August 4, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

**Algert S. Agricola, Jr.**

**R. Randolph Neeley**

**James Harold Anderson**

**Donald Palmer**

**Terry G. Davis**

**Robert D. Popper**

**Frank Corley Ellis, Jr.**

**Michael W. Robinson**

**Misty S. Fairbanks**

**Winfield J. Sinclair**

**Margaret L. Fleming**

**Edward Still**

**Shannon Lynn Holliday**

**Gary R. Trawick**

**Christy A. McCormick**

**Dorman Walker**

And I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants:

**John K. Tanner  
U.S. Department of Justice  
Chief, Voting Section  
Civil Rights Division  
Room 7254-NWB  
950 Pennsylvania Avenue NW  
Washington, DC 20530**

**Wan J. Kim  
U.S. Department of Justice  
Voting Section  
Civil Rights Division  
Room 7254-NWB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530**

**/s/ Kenneth D. Wallis, II**  
Kenneth D. Wallis, II  
Chief Legal Advisor  
Office of the Governor